

## Minutes of Meeting

### VIRGINIA REAL ESTATE BOARD INFORMAL FACT-FINDING CONFERENCES April 12, 2004 (10:00 A.M.)

The Virginia Real Estate Board convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

Schaefer Oglesby, Board Member, Presided. No other Board members were present

Douglas W. Schroder appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD. and the Summaries or Consent Orders are attached unless no decision was made.

Disc=Disciplinary Case  
Lic=Licensing Application

C=Complainant/Claimant  
A=Applicant  
R=Respondent/Regulant  
PB=Principal Broker  
SA=Sales Agent  
I=Investigator  
W=Witness


#### Participants

- |    |  |                                  |
|----|--|----------------------------------|
| 1. | Nichelle L. Etute<br>File Number 2004-03917 (Lic)      | Etute – A<br>David Etute - W     |
| 2. | Joseph D. Boyd, II<br>File Number 2004-03918 (Lic)     | Boyd – A                         |
| 3. | LeRoy Louis Smith, II<br>File Number 2004-03920 (Lic)  | Smith – A                        |
| 4. | James A. Risser<br>File Number 2004-03904 (Lic)        | Risser – A                       |
| 5. | Harold Philip Claytor<br>File Number 2004-02691 (Disc) | Claytor - R<br>Wayne Mozingo – I |

The meeting adjourned at 2:15 p.m.

Virginia Real Estate Board

  
S. Ronald Owens, Chairman

  
Louise Fontaine Ware, Secretary

COPY TESTE:

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Custodian of Records

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION  
REAL ESTATE BOARD**

**RE:    NICHELLE L. ETUTE  
       APPLICATION**

**FILE NUMBER: 2004-03917**

**Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on April 12, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Nichelle L. Etute on April 2, 2004. The following individuals participated at the conference: Nichelle L. Etute, Applicant and David Etute, Witness; Douglas W. Schroder, Staff Member; and R. Schaefer Oglesby, presiding Board Member.

### **Summation of Facts**

1. On March 17, 2004, Nichelle L. Etute (Etute) applied for a broker's license by examination and did not meet the experience verification requirements on her application
2. On or about April 1, 2004, the Board's licensing staff provided the Regulatory Programs Division Application Review Informal Fact Finding Conference Referral Memorandum, which states the reasons the license was not issued.
3. Etute did not provide independent verification of experience showing that she was actively engaged as a real estate salesperson and/or broker for 36 of the 48 months preceding her application for licensure.
4. Etute requested a waiver of the experience requirement, when she applied, based upon the fact that she was an independent contractor with Value//Max Real Estate and their current broker refused to certify the number of hours Etute worked for fear of jeopardizing Etute's independent contractor status.
5. During the IFF, Etute provided documentation, in the form of an activity summary, showing settlement statements and summaries of her work schedules for the years 2000, 2001, 2002, 2003 and 2004. This verified a considerable amount of time which she allocated to the real estate business. Etute stated that this is a partial summary of her activity which she was able to retrieve from storage.

### **Conclusion and Recommendation**

Based upon the record and information presented at the conference, I recommend Etute's application be approved. Etute made a very professional presentation and I believe her to have been active in the real estate business since 2000. I feel that Etute would be an asset to the real estate profession, as a broker.

By: \_\_\_\_\_

R. Schaefer Oglesby  
Presiding IFF Board Member  
Real Estate Board

Date: \_\_\_\_\_

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

**REAL ESTATE BOARD**

**RE:     JOSEPH D. BOYD, II  
         APPLICATION**

**FILE NUMBER: 2004-03918**

**Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on April 12, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Joseph D. Boyd, II on April 6, 2004. The following individuals participated at the conference: Joseph D. Boyd, II, Applicant; Douglas W. Schroder, Staff Member; and R. Schaefer Oglesby, presiding Board Member.

**Summation of Facts**

1.     On March 25, 2004, Joseph D. Boyd (Boyd) applied for a broker's license by examination and did not meet the experience verification requirements on his application
2.     On or about April 1, 2004, the Board's licensing staff provided the Regulatory Programs Division Application Review Informal Fact Finding Conference Referral Memorandum, which states the reasons the license was not issued.
3.     Boyd did not provide independent verification of experience showing that he was actively engaged as a real estate salesperson and/or broker for 36 of the 48 months *preceding her application for licensure*.
4.     Boyd requested a waiver of the experience requirement, when he applied, due to the fact that he is an independent contractor and can not provide independent verification of his experience.
5.     Boyd testified that while he was "active in the business" he was unable to prove that. *Boyd also testified, under questioning, that he had sold less than 20 houses in a three year period, but had no proof of those sales that he could provide.*

**Conclusion and Recommendation**

Boyd has verified 16 months of qualifying experience in real estate sales. Boyd was unable to substantiate any additional experience. Therefore, based upon the

record and information presented at the conference, I recommend Boyd's application be denied.

By: \_\_\_\_\_

R. Schaefer Oglesby  
Presiding IFF Board Member  
Real Estate Board

Date: \_\_\_\_\_

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION  
REAL ESTATE BOARD**

**RE: LEROY L. SMITH, II  
APPLICATION**

**FILE NUMBER: 2004-03920**

**Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on April 12, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to LeRoy L. Smith, II on April 2, 2004. *The following individuals participated at the conference: LeRoy L. Smith, II, Applicant; Douglas W. Schroder, Staff Member; and R. Schaefer Oglesby, presiding Board Member.*

**Summation of Facts**

1. On March 11, 2004, LeRoy L. Smith., II, (Smith) applied for a broker's license by reciprocity and did not meet the experience verification requirements on his application.
2. On or about April 1, 2004, the Board's licensing staff provided the Regulatory Programs Division Application Review Informal Fact Finding Conference Referral Memorandum, which states the reasons the license was not issued.

3. Smith did not provide independent verification of experience showing that he was actively engaged as a real estate salesperson and/or broker for 36 of the 48 months preceding his application for licensure.

4. Smith requested a waiver of the experience requirement, when he applied and can not provide independent verification of his experience.

5. During the IFF, Smith stated he had been working for Toll Brothers Real Estate, Inc. since December of 2000, working in builder sales and training sales personnel.

### **Conclusion and Recommendation**

Smith has an impressive amount of actual "hands on" experience in the real estate business and holds a GRI, CCIM and CRB designation. Additionally, Smith is currently licensed as a broker in North Carolina. Even though Smith is lacking the 36 of the last 48 month experience as an active real estate licensee, Smith has been working with sales people within the Toll Brothers Builders organization and working with cooperating licensees. Therefore, based upon the record and information presented at the conference, I recommend Smith's application be approved.

By: \_\_\_\_\_

R. Schaefer Oglesby  
Presiding IFF Board Member  
Real Estate Board

Date: \_\_\_\_\_

### **COMMONWEALTH OF VIRGINIA DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

### **REAL ESTATE BOARD**

**RE: JAMES A. RISSE  
APPLICATION**

**FILE NUMBER: 2004-03904**

### **Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on April 12, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to James A. Risser on April 2,

2004. The following individuals participated at the conference: James A. Risser, Applicant; Douglas W. Schroder, Staff Member; and R. Schaefer Oglesby, presiding Board Member.

### **Summation of Facts**

1. On February 10, 2004, James A. Risser (Risser) applied for a broker's license by reciprocity and disclosed a previous disciplinary action on his application.
2. On or about March 31, 2004, the Board's licensing staff provided the Regulatory Programs Division Application Review Informal Fact Finding Conference Referral Memorandum, which states the reasons the license was not issued.
3. On October 15, 1998, the North Carolina Real Estate Commission entered into a Consent Order with James A. Risser wherein Risser was found in violation of N.C.G.S. 93.A-6(a)(15) and 21 NCAC 58A.0107 and .0110 (following an audit of Risser's company's records, finding "inconsistencies in our record keeping") and his broker's license was suspended for three years.
4. On November 30, 1998, the remaining term of this suspension was stayed and Risser was placed on probation until November 1, 2001 upon the following conditions: (1) that on or before June 1, 2000, Risser complete 16 additional hours of continuing education with approximately 8 of the hours addressing trust account and disclosure issues and (2) that Risser not violate the provisions of Chapter 93A, N.C.G.S or the rules of the Commission during his probation.
5. During the IFF, Risser testified that the disciplinary action resulted from an unscheduled audit, revealing violations within the business. The major problem resulted from partial accounting being done on a computer and part manually, resulting in an imbalance during this transition. Risser, also testified that significant changes were immediately taken to ensure that all accounts were brought into balance and checks and balances were put into place to eliminate problems in the future.

### **Conclusion and Recommendation**

Risser has an impressive record of continuing public service. Because of this incident, Risser obtained his GRI designation and has continued his professional education with Certified Property Manager courses and CCIM courses. I believe Risser is an asset to the real estate profession and based upon the record and information presented at the conference, I recommend Risser's application be approved.

By: \_\_\_\_\_

R. Schaefer Oglesby  
Presiding IFF Board Member  
Real Estate Board

Date: \_\_\_\_\_

**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTEREST ACT**

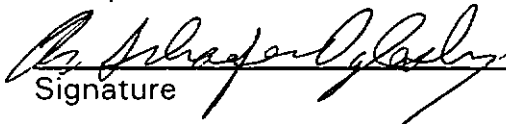
**TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government**

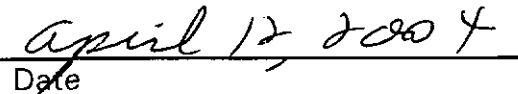
1. Name: R. Schaefer Oglesby
2. Title: Board Member
3. Agency: Real Estate Board
4. Transaction: Informal Fact-Finding Conferences on April 12, 2004
5. Nature of Personal Interest Affected by Transaction: \_\_\_\_\_

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction: \_\_\_\_\_

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

  
Signature

  
Date